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**SUBSTITUTE HOUSE BILL 2026**

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**State of Washington**                      **62nd Legislature**                      **2011 Regular Session**

**By** House Labor & Workforce Development (originally sponsored by Representatives Sells and Reykdal)

READ FIRST TIME 04/08/11.

1            AN ACT Relating to creating the industrial insurance rainy day  
2 account; amending RCW 51.16.035 and 51.44.100; reenacting and amending  
3 RCW 43.84.092; adding a new section to chapter 51.44 RCW; and creating  
4 a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            NEW SECTION.    **Sec. 1.**    The legislature finds that stability in  
7 industrial insurance premium rates benefits both employers and workers.  
8 Further, the legislature finds that economic and other events may cause  
9 both benefit costs and premiums collected to change in unanticipated  
10 ways. Therefore, the legislature intends that rather than return any  
11 surplus funds to employers and workers in the form of rate holidays,  
12 dividends, and other returns, any surpluses should be deposited into a  
13 rainy day account that shall be used in lieu of a premium rate  
14 increase.

15            **Sec. 2.**    RCW 51.16.035 and 2005 c 410 s 1 are each amended to read  
16 as follows:

17            (1) The department shall classify all occupations or industries in

1 accordance with their degree of hazard and fix therefor basic rates of  
2 premium which shall be:

3 (a) The lowest necessary to maintain actuarial solvency of the  
4 accident and medical aid funds in accordance with recognized insurance  
5 principles; and

6 (b) Designed to attempt to limit fluctuations in premium rates.

7 (2)(a) The director, in consultation with the state treasurer and  
8 the workers' compensation advisory committee, shall determine whether  
9 there is a surplus in the accident fund or the medical aid fund. If  
10 the director determines that a surplus balance exists in either or both  
11 funds, the director shall notify the treasurer of the amount of the  
12 surplus in the account, and the treasurer must transfer the surplus  
13 balance to the industrial insurance rainy day account created under  
14 section 3 of this act.

15 (b) If the director determines to increase average rates for the  
16 accident fund or medical aid fund, the director must notify the state  
17 treasurer and the state treasurer must first transfer the amount  
18 required to fund the rate increase from the industrial insurance rainy  
19 day account created in section 3 of this act to the accident fund or  
20 medical aid fund, as appropriate. The amount so transferred may not  
21 exceed the balance in the industrial insurance rainy day account that  
22 is attributable to the affected fund.

23 (3) The department shall formulate and adopt rules governing the  
24 method of premium calculation and collection and providing for a rating  
25 system consistent with recognized principles of workers' compensation  
26 insurance which shall be designed to stimulate and encourage accident  
27 prevention and to facilitate collection. The department may annually,  
28 or at such other times as it deems necessary to achieve the objectives  
29 under this section, readjust rates in accordance with the rating system  
30 to become effective on such dates as the department may designate.  
31 However, the department may not distribute premium dividends and may  
32 not reduce average rates.

33 ~~((3))~~ (4)(a) After the first report is issued by the state  
34 auditor under RCW 51.44.115, the workers' compensation advisory  
35 committee shall review the report and, as the committee deems  
36 appropriate, may make recommendations to the department concerning:

37 (i) The level or levels of a contingency reserve that are

1 appropriate to maintain actuarial solvency of the accident and medical  
2 aid funds, limit premium rate fluctuations, and account for economic  
3 conditions; and

4 (ii) When surplus funds exist in the trust funds, the circumstances  
5 under which the department should give premium dividends, or similar  
6 measures, or temporarily reduce rates below the rates fixed under  
7 subsection (1) of this section, including any recommendations regarding  
8 notifications that should be given before taking the action.

9 (b) Following subsequent reports issued by the state auditor under  
10 RCW 51.44.115 or at other times, the workers' compensation advisory  
11 committee may, as it deems appropriate, (~~update its recommendations to~~  
12 ~~the department on the matters covered under (a) of this subsection~~)  
13 make recommendations to the department concerning:

14 (i) The level or levels of a contingency reserve that are  
15 appropriate to maintain actuarial solvency of the accident and medical  
16 aid funds, limit premium rate fluctuations, and account for economic  
17 conditions; and

18 (ii) Whether a transfer is appropriate under subsection (2) of this  
19 section.

20 ((+4)) (5) In providing a retrospective rating plan under RCW  
21 51.18.010, the department may consider each individual retrospective  
22 rating group as a single employing entity for purposes of dividends or  
23 premium discounts.

24 NEW SECTION. Sec. 3. A new section is added to chapter 51.44 RCW  
25 to read as follows:

26 The industrial insurance rainy day account is created in the state  
27 treasury as an industrial insurance trust fund. Revenues to the  
28 account consist of transfers made pursuant to RCW 51.16.035(2). Moneys  
29 in the account may be used solely for transfers into the accident fund  
30 or medical aid fund or both in order to avoid premium increases in  
31 those funds under RCW 51.16.035 and retain their status as moneys held  
32 in trust for purposes of the industrial insurance program. The  
33 treasurer must separately account for any transfers to and from the  
34 accident fund and the medical aid fund.

35 **Sec. 4.** RCW 51.44.100 and 1990 c 80 s 1 are each amended to read  
36 as follows:

1 Whenever, in the judgment of the state investment board, there  
2 shall be in the accident fund, medical aid fund, reserve fund, or the  
3 supplemental pension fund, funds in excess of that amount deemed by the  
4 state investment board to be sufficient to meet the current  
5 expenditures properly payable therefrom, the state investment board may  
6 invest and reinvest such excess funds in the manner prescribed by RCW  
7 43.84.150, and not otherwise. In addition, the state investment board  
8 shall invest and reinvest moneys in the industrial insurance rainy day  
9 account created in section 3 of this act.

10 The state investment board may give consideration to the investment  
11 of excess funds in federally insured student loans made to persons in  
12 vocational training or retraining or reeducation programs. The state  
13 investment board may make such investments by purchasing from savings  
14 and loan associations, commercial banks, mutual savings banks, credit  
15 unions and other institutions authorized to be lenders under the  
16 federally insured student loan act, organized under federal or state  
17 law and operating in this state loans made by such institutions to  
18 residents of the state of Washington particularly for the purpose of  
19 vocational training or reeducation: PROVIDED, That the state  
20 investment board shall purchase only that portion of any loan which is  
21 guaranteed or insured by the United States of America, or by any agency  
22 or instrumentality of the United States of America: PROVIDED FURTHER,  
23 That the state investment board is authorized to enter into contracts  
24 with such savings and loan associations, commercial banks, mutual  
25 savings banks, credit unions, and other institutions authorized to be  
26 lenders under the federally insured student loan act to service loans  
27 purchased pursuant to this section at an agreed upon contract price.

28 **Sec. 5.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp.s.  
29 c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145  
30 s 11 are each reenacted and amended to read as follows:

31 (1) All earnings of investments of surplus balances in the state  
32 treasury shall be deposited to the treasury income account, which  
33 account is hereby established in the state treasury.

34 (2) The treasury income account shall be utilized to pay or receive  
35 funds associated with federal programs as required by the federal cash  
36 management improvement act of 1990. The treasury income account is  
37 subject in all respects to chapter 43.88 RCW, but no appropriation is

1 required for refunds or allocations of interest earnings required by  
2 the cash management improvement act. Refunds of interest to the  
3 federal treasury required under the cash management improvement act  
4 fall under RCW 43.88.180 and shall not require appropriation. The  
5 office of financial management shall determine the amounts due to or  
6 from the federal government pursuant to the cash management improvement  
7 act. The office of financial management may direct transfers of funds  
8 between accounts as deemed necessary to implement the provisions of the  
9 cash management improvement act, and this subsection. Refunds or  
10 allocations shall occur prior to the distributions of earnings set  
11 forth in subsection (4) of this section.

12 (3) Except for the provisions of RCW 43.84.160, the treasury income  
13 account may be utilized for the payment of purchased banking services  
14 on behalf of treasury funds including, but not limited to, depository,  
15 safekeeping, and disbursement functions for the state treasury and  
16 affected state agencies. The treasury income account is subject in all  
17 respects to chapter 43.88 RCW, but no appropriation is required for  
18 payments to financial institutions. Payments shall occur prior to  
19 distribution of earnings set forth in subsection (4) of this section.

20 (4) Monthly, the state treasurer shall distribute the earnings  
21 credited to the treasury income account. The state treasurer shall  
22 credit the general fund with all the earnings credited to the treasury  
23 income account except:

24 (a) The following accounts and funds shall receive their  
25 proportionate share of earnings based upon each account's and fund's  
26 average daily balance for the period: The aeronautics account, the  
27 aircraft search and rescue account, the budget stabilization account,  
28 the capitol building construction account, the Cedar River channel  
29 construction and operation account, the Central Washington University  
30 capital projects account, the charitable, educational, penal and  
31 reformatory institutions account, the cleanup settlement account, the  
32 Columbia river basin water supply development account, the common  
33 school construction fund, the county arterial preservation account, the  
34 county criminal justice assistance account, the county sales and use  
35 tax equalization account, the deferred compensation administrative  
36 account, the deferred compensation principal account, the department of  
37 licensing services account, the department of retirement systems  
38 expense account, the developmental disabilities community trust

1 account, the drinking water assistance account, the drinking water  
2 assistance administrative account, the drinking water assistance  
3 repayment account, the Eastern Washington University capital projects  
4 account, the education construction fund, the education legacy trust  
5 account, the election account, the energy freedom account, the energy  
6 recovery act account, the essential rail assistance account, The  
7 Evergreen State College capital projects account, the federal forest  
8 revolving account, the ferry bond retirement fund, the freight  
9 congestion relief account, the freight mobility investment account, the  
10 freight mobility multimodal account, the grade crossing protective  
11 fund, the public health services account, the health system capacity  
12 account, the high capacity transportation account, the state higher  
13 education construction account, the higher education construction  
14 account, the highway bond retirement fund, the highway infrastructure  
15 account, the highway safety account, the high occupancy toll lanes  
16 operations account, the hospital safety net assessment fund, the  
17 industrial insurance rainy day account, the industrial insurance  
18 premium refund account, the judges' retirement account, the judicial  
19 retirement administrative account, the judicial retirement principal  
20 account, the local leasehold excise tax account, the local real estate  
21 excise tax account, the local sales and use tax account, the marine  
22 resources stewardship trust account, the medical aid account, the  
23 mobile home park relocation fund, the motor vehicle fund, the  
24 motorcycle safety education account, the multiagency permitting team  
25 account, the multimodal transportation account, the municipal criminal  
26 justice assistance account, the municipal sales and use tax  
27 equalization account, the natural resources deposit account, the oyster  
28 reserve land account, the pension funding stabilization account, the  
29 perpetual surveillance and maintenance account, the public employees'  
30 retirement system plan 1 account, the public employees' retirement  
31 system combined plan 2 and plan 3 account, the public facilities  
32 construction loan revolving account beginning July 1, 2004, the public  
33 health supplemental account, the public transportation systems account,  
34 the public works assistance account, the Puget Sound capital  
35 construction account, the Puget Sound ferry operations account, the  
36 Puyallup tribal settlement account, the real estate appraiser  
37 commission account, the recreational vehicle account, the regional  
38 mobility grant program account, the resource management cost account,

1 the rural arterial trust account, the rural Washington loan fund, the  
2 site closure account, the small city pavement and sidewalk account, the  
3 special category C account, the special wildlife account, the state  
4 employees' insurance account, the state employees' insurance reserve  
5 account, the state investment board expense account, the state  
6 investment board commingled trust fund accounts, the state patrol  
7 highway account, the state route number 520 civil penalties account,  
8 the state route number 520 corridor account, the supplemental pension  
9 account, the Tacoma Narrows toll bridge account, the teachers'  
10 retirement system plan 1 account, the teachers' retirement system  
11 combined plan 2 and plan 3 account, the tobacco prevention and control  
12 account, the tobacco settlement account, the transportation 2003  
13 account (nickel account), the transportation equipment fund, the  
14 transportation fund, the transportation improvement account, the  
15 transportation improvement board bond retirement account, the  
16 transportation infrastructure account, the transportation partnership  
17 account, the traumatic brain injury account, the tuition recovery trust  
18 fund, the University of Washington bond retirement fund, the University  
19 of Washington building account, the urban arterial trust account, the  
20 volunteer firefighters' and reserve officers' relief and pension  
21 principal fund, the volunteer firefighters' and reserve officers'  
22 administrative fund, the Washington judicial retirement system account,  
23 the Washington law enforcement officers' and firefighters' system plan  
24 1 retirement account, the Washington law enforcement officers' and  
25 firefighters' system plan 2 retirement account, the Washington public  
26 safety employees' plan 2 retirement account, the Washington school  
27 employees' retirement system combined plan 2 and 3 account, the  
28 Washington state health insurance pool account, the Washington state  
29 patrol retirement account, the Washington State University building  
30 account, the Washington State University bond retirement fund, the  
31 water pollution control revolving fund, and the Western Washington  
32 University capital projects account. Earnings derived from investing  
33 balances of the agricultural permanent fund, the normal school  
34 permanent fund, the permanent common school fund, the scientific  
35 permanent fund, and the state university permanent fund shall be  
36 allocated to their respective beneficiary accounts.

37 (b) Any state agency that has independent authority over accounts  
38 or funds not statutorily required to be held in the state treasury that

1 deposits funds into a fund or account in the state treasury pursuant to  
2 an agreement with the office of the state treasurer shall receive its  
3 proportionate share of earnings based upon each account's or fund's  
4 average daily balance for the period.

5 (5) In conformance with Article II, section 37 of the state  
6 Constitution, no treasury accounts or funds shall be allocated earnings  
7 without the specific affirmative directive of this section.

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